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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,596	10/09/2003	Joseph A. King	5573	9774

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CARL L. JOHNSON
JACOBSON AND JOHNSON
SUITE 285
ONE WEST WATER STREET
ST. PAUL, MN 55107-2080

EXAMINER

HOEY, BETSEY MORRISON

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/682,596

Applicant(s)

KING ET AL.

Examiner

Betsey M Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 46-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/9/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 46-48 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,221,244 to Yassin (see figures; columns 2-3). Referring to Figures 1 and 2, Yassin teaches a swimming pool water treatment system, wherein a device 24, having a water treatment material 58, is placed in a pool or housing 10, completely below a water line 22. Water in the housing 22 is allowed access to the water treatment material 58 through openings 64, which act as inlets and outlets for the water. The device 24 is supported by a wall of the housing, where it is attached by a suction cup. Since a suction cup is not a rope or “tether”, the device is considered to be “untethered” as recited in instant claim 1.

3. Claims 57, 58 and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,221,244 to Yassin (see figures; columns 2-3). Referring to Figures 1 and 2, Yassin teaches a device for introducing a chemical into a swimming pool, wherein a container 24, having a water treatment material 58, is placed in a pool or housing 10, completely below a water line 22. Water in the housing 22 is directed into container 24 to access the water treatment material 58 through openings 64.

4. Claim 62 is rejected under 35 U.S.C. 102(b) as being anticipated by Yassin (see above). Yassin teaches a water treatment device described above, comprising a suction

cup 44 on a surface of the container 24, for supporting the container 24 on a wall of pool housing 10.

5. Claim 63 is rejected under 35 U.S.C. 102(b) as being anticipated by Yassin (see above). Yassin teaches a water treatment device that is used as described above. The water treatment device of Yassin comprises chlorine tablets, which are not disclosed as being buoyant or able to float in the water, and which are known in the art of pool treatment to have insufficient buoyancy to float in the water.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yassin as applied to claim 46 above, and further in view of U.S. Patent No. 6,224,779 to Spector or U.S. Patent No. 6,254,894 to Denkewicz et al. Yassin discloses the swimming pool water treatment system described above. The claims differ from Yassin by reciting that the device includes a metal ion yielding water treatment material (claim 49), which is silver chloride (claim 50). Yassin discloses a chlorine tablet for water treatment.

Spector and Denkewicz et al. both disclose materials for treating water in a swimming pool comprising silver chloride as an alternative to chlorine. Both Spector and Denkewicz et al. disclose the use of silver chloride, a known bactericide and algacide, for inhibiting the growth of microorganisms such as algae in swimming pools. It would

have been obvious to one of ordinary skill in the art of pool water treatment, at the time the present invention was made, to have substituted the chlorine tablets of Yassin for silver chloride, in view of Spector and Denkewicz et al., in order to inhibit the growth of algae in the swimming pool being treated.

8. Claims 52, 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yassin (see above) in view of U.S. Patent No. 4,801,376 to Kulitz. Referring to Figures 1 and 2, Yassin teaches a swimming pool water treatment system comprising a pool housing 10 supporting a volume of water, a water treatment device 24, having a water treatment material 58 therein, wherein the device is below a water line of the water volume, and the device 24 is a container having passages 64, acting as inlets and outlets for directing water into contact with the treatment material 58. The claims differ from Yassin by reciting that the device is both free standing and supported by the housing (claim 52).

Although Yassin shows the device 24 to be supported by a wall of the housing 10, and not free standing as recited in claim 52, Yassin discloses in column 4 that the device may be attached to the automatic sweeper for the swimming pool instead of being attached to the wall surface. Kulitz discloses an automatic sweeper for a swimming pool, which is free standing and supported by the pool floor. If the device of Yassin is placed in the sweeper of Kulitz, the sweeper may be considered a container having a passage for directing water to be in contact with the treatment material of Yassin, wherein the container is free standing and supported by the swimming pool housing as recited in the instant claims. It would have been obvious to one of ordinary skill in the art, at the time the present invention was made, to have placed the device of

Yassin within the sweeper of Kulitz, thus providing a free standing treatment device as recited in instant claim 52, because Yassin suggests using the device with an automatic pool sweeper.

9. Claims 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yassin in view of Kulitz as applied to claim 52 above, and further in view of Spector or Denkewicz et al. (see above). Yassin and Kulitz disclose the swimming pool water treatment device and sweeper, respectively, described above. The claims differ from Yassin and Kulitz by reciting that the system includes a metal ion yielding water treatment material (claim 53), which is silver chloride (claim 54). Yassin discloses a chlorine tablet for water treatment.

Spector and Denkewicz et al. both disclose materials for treating water in a swimming pool comprising silver chloride as an alternative to chlorine. Both Spector and Denkewicz et al. disclose the use of silver chloride, a known bactericide and algacide, for inhibiting the growth of microorganisms such as algae in swimming pools. It would have been obvious to one of ordinary skill in the art of pool water treatment, at the time the present invention was made, to have substituted the chlorine tablets of Yassin for silver chloride, in view of Spector and Denkewicz et al., in order to inhibit the growth of algae in the swimming pool being treated, and to use these tablets within the sweeper of Kulitz for the reasons described above.

10. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yassin (see above). Yassin discloses the device for introducing a chemical into a swimming pool as described in the above rejection of claim 57. Claim 59 differs from Yassin by reciting that the device is below a water line of a water volume in a spa or hot tub.

It is submitted that it is well known in the art of water purification devices that devices for adding a treatment material to a swimming pool are also used for treating spas and hot tubs. Although Yassin does not specifically mention the use of his device in a spa or hot tub, one of ordinary skill in the art of pool water treatment, at the time the present invention was made, would have been motivated to use the device of Yassin in a spa or hot tub, because spa and hot tub water is treated by the same methods and devices used to treat swimming pools.

11. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yassin as applied to claim 57 above, and further in view of Kulitz (see above). Yassin discloses the device described above in the rejection of claim 57. Claim 61 differs from Yassin by reciting that the device is free standing.

Although Yassin shows the device 24 to be supported by a wall of the housing 10, and not free standing as recited in claim 61, Yassin discloses that the device may be attached to the automatic sweeper for the swimming pool. Kulitz discloses an automatic sweeper for a swimming pool, which is free standing. If the device of Yassin is placed in the sweeper of Kulitz, the sweeper may be considered a container allowing water to be in contact with the treatment material of Yassin, wherein the container is free standing as recited in the instant claim. It would have been obvious to one of ordinary skill in the art, at the time the present invention was made, to have placed the device of Yassin within the sweeper of Kulitz, thus providing a free standing treatment device as recited in instant claim 61, because Yassin suggests using the device with an automatic pool sweeper.

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12. Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yassin as applied to claim 63 above, and further in view of Kulitz (see above). Yassin discloses the device described above in the rejection of claim 63. Claim 64 differs from Yassin by reciting that the container is submerged to the bottom of the housing.

Although Yassin shows the device 24 to be supported by a wall of the housing 10, and submerged to the bottom of the pool as recited in claim 64, Yassin discloses that the device may be attached to the automatic sweeper for the swimming pool. Kulitz discloses an automatic sweeper for a swimming pool, which is submerged to the pool floor. If the device of Yassin is placed in the sweeper of Kulitz, the sweeper may be considered a container allowing water to be in contact with the treatment material of Yassin, wherein the container is submerged to the bottom of the pool. It would have been obvious to one of ordinary skill in the art, at the time the present invention was made, to have placed the device of Yassin within the sweeper of Kulitz, thus providing a device submerged to the bottom of a housing as recited in instant claim 64, because Yassin suggests using the device with an automatic pool sweeper.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betsey Hoey whose telephone number is **(571) 272-1158**. The examiner can normally be reached on Mondays, Tuesdays, and Thursdays. The examiner's supervisor, Mr. Duane Smith, may be reached at (571) 272-1166. Any inquiry of general nature may be directed to the Group receptionist at (571) 272-0987. The centralized fax number for the Group is (703) 872-9306. The examiner Rightfax number is (571) 273-1158.



BETSEY MORRISON HOEY
PRIMARY EXAMINER

February 17, 2005